



Reprinted  
February 3, 2004

## SENATE BILL No. 422

DIGEST OF SB 422 (Updated February 2, 2004 4:23 pm - DI 102)

**Citations Affected:** IC 3-11; IC 3-12; IC 3-14; IC 35-44; noncode.

**Synopsis:** Various election law matters. Provides that an absentee ballot application may not be given to a voter if any of the information has been filled out before the application is given to the voter. Requires an absentee ballot application to be filed within specific times. Requires an individual who files an absentee ballot application for another individual to sign an affidavit attesting to certain information. Requires an applicant for an absentee ballot to affirm the content of the application under the penalties for perjury. Permits a county election board member or an absentee voter board member to file an affidavit alleging that an absentee ballot application has not been filed according to law. Provides that a person may not engage in electioneering in the presence of an individual who possesses an absentee ballot. Requires certain persons who deliver an absentee ballot to a voter to affirm certain facts under penalties for perjury. Makes other changes relating to absentee ballots. Makes various changes in the procedures for certification of voting systems. Provides for extension of the deadline for completion of a recount or contest. Establishes new criminal offenses relating to fraud and misrepresentation in elections.

**Effective:** Upon passage; July 1, 2004.

**Lawson C, Waterman**

January 12, 2004, read first time and referred to Committee on Elections and Civic Affairs.  
January 26, 2004, reported favorably — Do Pass.  
February 2, 2004, read second time, amended, ordered engrossed.

SB 422—LS 7172/DI 75+



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February 3, 2004

Second Regular Session 113th General Assembly (2004)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2003 Regular Session of the General Assembly.

## SENATE BILL No. 422

A BILL FOR AN ACT to amend the Indiana Code concerning elections.

*Be it enacted by the General Assembly of the State of Indiana:*

1       SECTION 1. IC 3-11-4-2, AS AMENDED BY P.L.126-2002,  
2       SECTION 48, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
3       UPON PASSAGE]: Sec. 2. (a) A voter who wants to vote by absentee  
4       ballot must apply to the county election board for an official absentee  
5       ballot. **Except as provided in subsection (b), the voter must sign the**  
6       **absentee ballot application.**

7       (b) **If a voter with disabilities is unable to sign the absentee**  
8       **ballot application and the voter has not designated an individual to**  
9       **serve as attorney in fact for the voter, the county election board**  
10       **may designate an individual to sign the application on behalf of the**  
11       **voter.** If an individual applies for an absentee ballot as the properly  
12       authorized attorney in fact for a voter, the attorney in fact must attach  
13       a copy of the power of attorney to the application.

14       (c) **A person may not provide an individual with an application**  
15       **for an absentee ballot with the following information already**  
16       **printed or otherwise set forth on the application when provided to**  
17       **the individual:**

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- (1) The name of the individual.
- (2) The registration address of the individual.
- (3) The mailing address of the individual.
- (4) The date of birth of the individual.
- (5) The voter identification number of the individual.
- (6) The address to which the absentee ballot would be mailed, if different from the voter registration address of the individual.
- (7) In a primary election, the major political party ballot requested by the individual.
- (8) In a primary or general election, the types of absentee ballots requested by the individual.
- (9) The reason why the individual is entitled to vote an absentee ballot:
  - (A) by mail; or
  - (B) before an absentee voter board (other than an absentee voter board located in the office of the circuit court clerk or a satellite office);
 in accordance with IC 3-11-4-18, IC 3-11-10-24, or IC 3-11-10-25.
- (d) If the county election board determines that an absentee ballot application does not comply with subsection (c), the board shall deny the application under section 17.5 of this chapter.
- (e) A person who assists an individual in completing an absentee ballot application shall state the following information on the application:
  - (1) The full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.
  - (2) The date and location at which this assistance was provided.
  - (3) That the individual providing the assistance has complied with the Indiana laws governing the submission of absentee ballot applications.
  - (4) That the individual has no knowledge or reason to believe that the individual submitting the application:
    - (A) is ineligible to vote or ineligible to cast an absentee ballot; or
    - (B) did not properly complete and sign the application.
- (f) A person who receives a completed absentee ballot application from the individual who has applied for the absentee ballot shall file the application with the appropriate county election

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board not later than:

(1) noon seven (7) days after the individual receives the application; or

(2) the deadline set by Indiana law for filing the application with the board;

whichever occurs first.

(g) An individual filing an absentee ballot application received from another individual under subsection (e) must sign an affidavit at the time of filing the application. The affidavit must be in a form prescribed by the commission. The form must include the following:

(1) A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual submitting the application.

(2) A statement of:

(A) the date the absentee ballot application was executed; and

(B) the location where the absentee ballot application was executed.

(3) A statement that the individual filing the affidavit has complied with the Indiana laws governing the submission of absentee ballot applications.

(4) A statement that the individual has no knowledge or reason to believe that the individual whose application is to be filed:

(A) is ineligible to vote or to cast an absentee ballot; or

(B) did not properly complete and sign the application.

(5) A statement that the individual is executing the affidavit under the penalties of perjury.

(6) A statement setting forth the penalties for perjury.

(h) The county election board shall record the date and time of the filing of the affidavit and provide the individual with a file stamped copy of the affidavit without collecting any copying fee.

SECTION 2. IC 3-11-4-5.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5.1. (a) The commission shall prescribe the form of an application for an absentee ballot.

(b) This subsection does not apply to the form for an absentee ballot application to be submitted by an absent uniformed services voter or overseas voter which contains a standardized oath for those voters. The form of the application for an absentee ballot must:

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(1) require the applicant to swear to or affirm under the penalties of perjury that all of the information set forth on the application is true to the best of the applicant's knowledge and belief;

(2) require a person who assisted with the completion of the application to swear to or affirm under the penalties of perjury the statements set forth in section 2(e) of this chapter; and

(3) set forth the penalties for perjury.

(c) The form prescribed by the commission shall require that a voter who:

(1) requests an absentee ballot; and

(2) is eligible to vote in the precinct under IC 3-10-11 or IC 3-10-12;

must include the affidavit required by IC 3-10-11 or a written affirmation described in IC 3-10-12.

(d) The form prescribed by the commission must require that a voter who requests an absentee ballot to vote by mail must state a specific reason on the application to set forth the basis for the voter's reasonable expectation of being absent from the county on election day during the entire twelve (12) hours that the polls are open.

SECTION 3. IC 3-11-4-17.5, AS AMENDED BY P.L.209-2003, SECTION 114, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.5. (a) Upon receiving an application for an absentee ballot, the county election board (or the absentee voter board in the office of the circuit court clerk) shall determine if:

(1) the applicant is a voter of the precinct in which the applicant resides, according to the records of the county voter registration office;

(2) the information set forth on the application appears to be true; and

(3) the application has been completed and filed in accordance with Indiana and federal law.

If the members of the absentee voter board are unable to agree about any of the determinations described in subdivisions (1) through (3), the issue shall be referred to the county election board for determination.

(b) If:

(1) the applicant is not a voter of the precinct according to the registration record; or if

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(2) the application as completed and filed:

(A) contains a false statement; or

(B) does not otherwise comply with this chapter, Indiana or federal law;

as alleged under section 18.5 of this chapter, the county election board shall deny the application.

~~(b)~~ (c) This subsection applies after December 31, 2003, to an absentee ballot application submitted by an absent uniformed services voter or an overseas voter. In accordance with 42 U.S.C. 1973ff-1(d), if the application is denied, the county election board shall provide the voter with the reasons for the denial of the application. Unless the voter is present when the board denies the application, the board shall send a written notice stating the reasons for the denial to the voter. The notice must be sent:

(1) not later than forty-eight (48) hours after the application is denied; and

(2) to the voter at the address at which the voter requested that the absentee ballot be mailed.

~~(c)~~ This subsection applies after December 31, 2003: (d) If the county election board determines that the applicant is a voter of the precinct under subsection (a), the board shall then determine whether:

(1) the applicant was required to file any additional documentation under IC 3-7-33-4.5; and

(2) the applicant has filed this documentation according to the records of the county voter registration office.

If the applicant has not filed the required documentation, the county election board shall approve the application if the application otherwise complies with this chapter. The board shall add a notation to the application and to the record compiled under section 17 of this chapter indicating that the applicant will be required to provide additional documentation to the county voter registration office under IC 3-7-33-4.5 before the absentee ballot may be counted.

~~(d)~~ (e) If the applicant:

(1) is a voter of the precinct according to the registration record;

(2) states on the application that the applicant resides at an address that is within the same precinct but is not the same address shown on the registration record; and

(3) after December 31, 2005, provides a voter identification number on the application to permit transfer of registration under IC 3-7-13-13;

the county election board shall direct the county voter registration office to transfer the applicant's voter registration address to the

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address within the precinct shown on the application. The applicant's application for an absentee ballot shall be approved if the applicant is otherwise eligible to receive the ballot under this chapter.

SECTION 4. IC 3-11-4-18, AS AMENDED BY P.L.209-2003, SECTION 116, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. (a) If a voter satisfies any of the following, **qualifications described in IC 3-11-10-24 that entitle a voter to cast an absentee ballot by mail**, the county election board shall, at the request of the voter, mail the official ballot, postage fully prepaid, to the voter at the address stated in the application.

(1) ~~The voter will be absent from the county on election day:~~

(2) ~~The voter will be absent from the precinct of the voter's residence on election day because of service as:~~

(A) ~~a precinct election officer under IC 3-6-6;~~

(B) ~~a watcher under IC 3-6-8; IC 3-6-9; or IC 3-6-10;~~

(C) ~~a challenger or pollbook holder under IC 3-6-7; or~~

(D) ~~a person employed by an election board to administer the election for which the absentee ballot is requested:~~

(3) ~~The voter will be confined on election day to the voter's residence; to a health care facility; or to a hospital because of an illness or injury:~~

(4) ~~The voter is a voter with disabilities:~~

(5) ~~The voter is an elderly voter:~~

(6) ~~The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury:~~

(7) ~~The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open:~~

(8) ~~The voter is eligible to vote under IC 3-10-11 or IC 3-10-12:~~

(b) ~~This subsection applies after December 31, 2003:~~ If the county election board mails an absentee ballot to a voter required to file additional documentation with the county voter registration office before voting by absentee ballot under this chapter, the board shall include a notice to the voter in the envelope mailed to the voter under section 20 of this chapter. The notice must inform the voter that the voter must file the additional documentation required under IC 3-7-33-4.5 with the county voter registration office not later than noon on election day for the absentee ballot to be counted. The commission shall prescribe the form of this notice under IC 3-5-4-8.

(c) **Except as provided in section 18.5 of this chapter**, the ballot shall be mailed:

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(1) on the day of the receipt of the voter's application; or  
 (2) not more than five (5) days after the date of delivery of the  
 ballots under section 15 of this chapter;  
 whichever is later.

(d) In addition to the ballot mailed under subsection (c), the county  
 election board shall mail a special absentee ballot for overseas voters.

(e) **Except as provided in section 18.5 of this chapter**, the ballot  
 described in subsection (d):

(1) must be mailed:

(A) on the day of the receipt of the voter's application; or

(B) not more than five (5) days after the date of delivery of the  
 ballots under section 13(b) of this chapter;

whichever is later; and

(2) may not be mailed after the absentee ballots described by  
 section 13(a) of this chapter have been delivered to the circuit  
 court clerk or the clerk's authorized deputy.

(f) This subsection applies after December 31, 2005. As required by  
 42 U.S.C. 15481, an election board ~~must~~ **shall** establish a voter  
 education program (specific to a paper ballot or optical scan ballot card  
 provided as an absentee ballot under this chapter) to notify a voter of  
 the effect of casting multiple ballots for a single office.

(g) This subsection applies after December 31, 2005. As provided  
 by 42 U.S.C. 15481, when an absentee ballot is mailed under this  
 section, the mailing must include:

(1) information concerning the effect of casting multiple votes for  
 an office; and

(2) instructions on how to correct the ballot before the ballot is  
 cast and counted, including the issuance of replacement ballots.

**SECTION 5. IC 3-11-4-18.5 IS ADDED TO THE INDIANA CODE  
 AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE  
 UPON PASSAGE]: Sec. 18.5. (a) Upon receipt of an absentee ballot  
 application, a member of the county election board or a member  
 of an absentee voter board may file an affidavit with the county  
 election board alleging that the application:**

**(1) is not submitted by a voter of the precinct;**

**(2) contains a false statement; or**

**(3) has not been executed or filed in accordance with Indiana  
 or federal law.**

**(b) The affidavit must be in a form prescribed by the  
 commission and state the following:**

**(1) The name and title of the individual filing the affidavit.**

**(2) A brief statement of the facts known or believed by the**

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individual regarding why:

(A) the applicant is not a voter of the precinct;

(B) the application contains a false statement; or

(C) the application has not been executed or filed in accordance with Indiana or federal law.

(3) That the individual is executing the affidavit under the penalties of perjury.

(4) The penalties for perjury.

(c) Upon the filing of the affidavit, the approval or denial of the application shall be referred to the county election board, which shall promptly conduct a hearing on the matter.

(d) The county election board may act under IC 3-6-5-31 to refer the matter to the appropriate prosecuting attorney.

SECTION 6. IC 3-11-4-21, AS AMENDED BY P.L.209-2003, SECTION 117, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) On the other side of the envelope required by section 20 of this chapter shall be printed an affidavit in conformity with 42 U.S.C. 1973ff-1(b), providing that the voter affirms under penalty of perjury that the following information is true:

(1) The name of the precinct and township (or ward and city or town).

(2) That the voter is:

(A) a resident of; or

(B) entitled under IC 3-10-11 or IC 3-10-12 to vote in; the precinct.

(3) The voter's complete residence address, including the name of the city or town and county.

(4) That the voter is entitled to vote in the precinct, the type of election to be held, and the date of the election.

(5) That:

(A) the voter has personally marked the enclosed ballot or ballots in secret and has enclosed them in this envelope and sealed them without exhibiting them to any other person;

(B) the voter personally marked the enclosed ballot or ballots, enclosed them in this envelope, and sealed them with the assistance of an individual whose name is listed on the envelope and who affirms under penalty of perjury that the voter was not coerced or improperly influenced by the individual assisting the voter or any other person, in a manner prohibited by state or federal law, to cast the ballot for or against any candidate, political party, or public question; or

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(C) as the properly authorized attorney in fact for the undersigned under IC 30-5-5-14, the attorney in fact affirms the voter personally marked the enclosed ballot or ballots in secret and enclosed them in this envelope and sealed them without exhibiting them to the attorney in fact or to any other person.

(6) The date and the voter's signature.

(b) If the affidavit is signed by an attorney in fact, the name of the attorney in fact must be indicated.

(c) A guardian or conservator of an individual may not sign an affidavit for the individual under this section unless the guardian or conservator also holds a power of attorney authorizing the guardian or conservator to sign the affidavit.

**(d) The side of the envelope containing this affidavit must also set forth the penalties for perjury.**

SECTION 7. IC 3-11-7-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. (a) A proposed improvement or change to a ballot card voting system shall be reported to the election division by:

(1) the vendor, if a vendor is involved in the proposed change; and

(2) the county election board, if a county is proposing the change. A proposed improvement or change may not be **marketed, sold, leased, installed, or implemented in Indiana** before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine, within a reasonable period of time, whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this chapter or the standards adopted by the commission under section 2 of this chapter.

(d) After the commission has approved an improvement or change, the improvement or change may be **marketed, sold, leased, installed, or implemented in Indiana**.

SECTION 8. IC 3-11-7-17, AS AMENDED BY P.L.126-2002, SECTION 57, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17. (a) The election division (or a competent person designated by the commission to act on behalf of the election

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1 division) may periodically examine a ballot card voting system that the  
 2 commission has previously approved to determine if the system is still  
 3 in compliance with all statutory requirements.

4 (b) If the election division or competent person finds that a system  
 5 examined under subsection (a) fails to meet all requirements and  
 6 standards, and the commission concurs in these findings, the  
 7 commission may, by unanimous vote of all of the members of the  
 8 commission, rescind the commission's approval of the ~~vendor~~ **voting**  
 9 **system.**

10 (c) If the commission's approval is rescinded under subsection (b),  
 11 the commission may, by unanimous vote of all of the members of the  
 12 commission:

13 (1) recommend that use of the system be discontinued; and

14 (2) prohibit the system from being leased, marketed, or sold for  
 15 use in Indiana in an election conducted under this title.

16 (d) This subsection applies to a ballot card voting system approved  
 17 for its initial certification before:

18 (1) March 25, 1992; or

19 (2) a revision of IC 3-11-15 enacted after July 1, 1997, that  
 20 imposes additional standards that did not apply to the voting  
 21 system at the time of the system's initial certification.

22 The commission may, by unanimous consent of its entire membership,  
 23 require the voting system to be tested by an independent authority  
 24 designated by the commission. The vendor shall pay any testing  
 25 expenses under this subsection.

26 (e) If the independent testing authority determines that a voting  
 27 system tested under subsection (d) does not comply with this article,  
 28 the commission may, by unanimous consent of its entire membership,  
 29 prohibit the system from being leased, marketed, or sold for use in  
 30 Indiana in an election conducted under this title.

31 SECTION 9. IC 3-11-7-19 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. (a) **Except as**  
 33 **provided in subsection (g),** the approval of a ballot card voting system  
 34 under this chapter expires five (5) years after the date the commission  
 35 approves the system.

36 (b) The vendor of a voting system approved under this chapter may  
 37 request that the approval be renewed by filing an application with the  
 38 election division.

39 (c) The application described in subsection (b) must identify all  
 40 counties that are currently using the voting system. Before considering  
 41 the application for renewal, the election division shall give notice by  
 42 regular United States mail of the application to the circuit court clerk

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of each county listed in the application.

(d) When the commission considers the application, the commission shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of its entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

(1) complies with the standards prescribed under this chapter;

(2) has worked effectively where the system has been used; and

(3) has been adequately supported by the vendor of the system.

**(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:**

**(1) has not been certified by the commission for use in Indiana; or**

**(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;**

**the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.**

**(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.**

SECTION 10. IC 3-11-7.5-5, AS AMENDED BY P.L.176-1999, SECTION 75, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) A proposed improvement or change to an electronic voting system shall be reported to the election division by:

(1) the vendor, if a vendor is involved in the proposed change; and

(2) the county election board, if a county is proposing the change.

A proposed improvement or change may not be **marketed, sold, leased, installed, or implemented in Indiana** before the improvement or change is approved by the commission.

(b) A report of an improvement or change must be in the form

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prescribed by the commission.

(c) The election division (or a competent person designated by the commission to act on behalf of the election division) shall review the improvement or change to the voting system and report the results of the review to the commission. The commission shall determine within a reasonable period of time whether the improvement or change impairs the accuracy, efficiency, capacity, or ability to meet the requirements of this article.

(d) After the commission has examined and approved an improvement or change to an electronic voting system, the improvement or change may be **marketed, sold, leased, installed, or implemented in Indiana.**

SECTION 11. IC 3-11-7.5-25 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. The county election board may provide for the experimental use of an electronic voting system at an election in one (1) or more precincts in the county. The system may be used without a formal adoption **by the county** or purchase but **the electronic voting system** must be approved by the commission **before the system is implemented in or used by the county.** The experimental use of a system at an election **in accordance with this section** is valid for all purposes as if formally adopted **by the county.**

SECTION 12. IC 3-11-7.5-26, AS AMENDED BY P.L.126-2002, SECTION 58, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. (a) The election division (or a competent person designated by the commission to act on behalf of the election division) may periodically examine an electronic voting system that the commission has previously approved to determine if that system is still in compliance with all statutory requirements.

(b) If the election division or competent person finds that a system examined under subsection (a) fails to meet all requirements and standards, and the commission concurs in these findings, the commission may, by unanimous vote of all of the members of the commission, rescind the commission's approval of the ~~vendor~~ **voting system.**

(c) If the commission's approval is rescinded under subsection (b), the commission may by unanimous vote of all of the members of the commission:

(1) recommend that use of the system be discontinued; and

(2) prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

(d) This subsection applies to an electronic voting system approved

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for its initial certification before:

(1) March 25, 1992; or

(2) a revision of IC 3-11-15 enacted after July 1, 1997, that imposes additional standards that did not apply to the voting system at the time of the system's initial certification.

The commission may, by unanimous consent of its entire membership, require the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(e) If the independent testing authority determines that a voting system tested under subsection (d) does not comply with this article, the commission may, by unanimous consent of its entire membership, prohibit the system from being leased, marketed, or sold for use in Indiana in an election conducted under this title.

SECTION 13. IC 3-11-7.5-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 28. (a) **Except as provided in subsection (g)**, the approval of an electronic voting system under this chapter expires five (5) years after the date the commission approves the system.

(b) The vendor of a voting system approved under this chapter may request that the approval be renewed by filing an application with the election division.

(c) The application described in subsection (b) must identify all counties that are currently using the voting system. Before the commission considers the application for renewal, the election division shall give notice by regular United States mail of the application to the circuit court clerk of each county listed in the application.

(d) When the commission considers the application, the election division shall request comments regarding the renewal of the application from any interested person.

(e) The commission may, by unanimous consent of the commission's entire membership, order the voting system to be tested by an independent authority designated by the commission. The vendor shall pay any testing expenses under this subsection.

(f) The commission shall approve an application for renewal under this section if the commission finds that the voting system:

(1) complies with the standards prescribed under this chapter;

(2) has worked effectively where the system has been used; and

(3) has been adequately supported by the vendor of the system.

**(g) If the commission finds that a vendor has marketed, sold, leased, installed, implemented, or permitted the use of a voting system in Indiana that:**

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(1) has not been certified by the commission for use in Indiana; or

(2) includes hardware, firmware, or software in a version that has not been approved for use in Indiana;

the commission may revoke the approval granted under this section and prohibit the vendor from marketing, leasing, or selling any voting system in Indiana for a specific period not to exceed five (5) years.

(h) A vendor subject to subsection (g) may continue to provide support during the period specified in subsection (g) to a county that has acquired a voting system from the vendor after the vendor certifies that the voting system to be supported by the vendor only includes hardware, firmware, and software approved for use in Indiana.

SECTION 14. IC 3-11-10-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) A voter voting by absentee ballot may mark a ballot with a pen or a lead pencil.

(b) A person may not engage in electioneering (as defined by IC 3-14-3-16) in the presence of a voter whom the person knows possesses an absentee ballot provided to the voter in accordance with Indiana law.

SECTION 15. IC 3-11-10-24, AS AMENDED BY P.L.126-2002, SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. (a) Except as provided in subsection (b), a voter who satisfies any of the following is entitled to vote by mail:

(1) The voter ~~will be~~ has a specific, reasonable expectation of being absent from the county on election day during the twelve (12) hours that the polls are open and requests that the absentee ballot be mailed to the voter at an address that is not located within the county where the voter resides.

(2) The voter will be absent from the precinct of the voter's residence on election day because of service as:

(A) a precinct election officer under IC 3-6-6;

(B) a watcher under IC 3-6-8, IC 3-6-9, or IC 3-6-10;

(C) a challenger or pollbook holder under IC 3-6-7; or

(D) a person employed by an election board to administer the election for which the absentee ballot is requested.

(3) The voter will be confined on election day to the voter's residence, to a health care facility, or to a hospital because of an illness or injury during the twelve (12) hours that the polls are open.

(4) The voter is a voter with disabilities.

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(5) The voter is an elderly voter.

(6) The voter is prevented from voting due to the voter's care of an individual confined to a private residence because of illness or injury **during the twelve (12) hours that the polls are open.**

(7) The voter is scheduled to work at the person's regular place of employment during the entire twelve (12) hours that the polls are open.

(8) The voter is eligible to vote under IC 3-10-11 or IC 3-10-12.

**(9) The voter is prevented from voting due to observance of a religious discipline or religious holiday during the twelve (12) hours that the polls are open.**

(b) A voter with disabilities who:

(1) is unable to make a voting mark on the ballot or sign the absentee ballot secrecy envelope; and

(2) requests that the absentee ballot be delivered to an address within Indiana;

must vote before an absentee voter board under section 25(b) of this chapter.

(c) **If a voter receives an absentee ballot by mail, the voter shall personally mark the ballot in secret and seal the marked ballot inside the envelope provided by the county election board for that purpose. The voter shall then deposit the sealed envelope in the United States mail for delivery to the county election board or may authorize a member of the voter's household or the individual designated as the voter's attorney in fact to deposit the envelope in the United States mail or deliver the sealed envelope in person to the county election board.**

(d) **If a member of the voter's household or the voter's attorney in fact delivers the sealed envelope containing a voter's absentee ballot to the county election board, the individual delivering the ballot shall complete an affidavit in a form prescribed by the commission. The affidavit must contain the following information:**

(1) **The name and residence address of the voter whose absentee ballot is being delivered.**

(2) **A statement of the full name, residence and mailing address, and daytime and evening telephone numbers (if any) of the individual delivering the absentee ballot.**

(3) **A statement indicating whether the individual is a member of the voter's household or is the attorney in fact for the voter. If the individual is the attorney in fact for the voter, the individual must attach a copy of the power of attorney for the voter, unless a copy of this document has already been filed**

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with the county election board.

(4) The date and location at which the absentee ballot was delivered by the voter to the individual delivering the ballot to the county election board.

(5) A statement that the individual delivering the absentee ballot has complied with Indiana laws governing absentee ballots.

(6) A statement that the individual is executing the affidavit under the penalties of perjury.

(7) A statement setting forth the penalties for perjury.

(e) The county election board shall record the date and time that the affidavit under subsection (d) was filed with the board.

(f) After a voter has mailed **or delivered** an absentee ballot to the office of the circuit court clerk, the voter may not recast a ballot, except as provided in:

(1) section 1.5 of this chapter; or

(2) section 33 of this chapter.

SECTION 16. IC 3-11-10-25, AS AMENDED BY P.L.209-2003, SECTION 146, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 25. (a) A voter who votes by absentee ballot because of:

(1) illness or injury; or

(2) caring for a confined person at a private residence;

and who is within the county on election day may vote before an absentee voter board or by mail.

(b) If requested by a voter described in subsection (a) or by a voter with disabilities whose precinct is not accessible to voters with disabilities, an absentee voter board shall visit the voter's place of confinement, the residence of the voter with disabilities, or the private residence:

(1) during the regular office hours of the circuit court clerk;

(2) at a time agreed to by the board and the voter;

(3) on any of the twelve (12) days immediately before election day; and

(4) only once before an election, unless:

(A) the confined voter is unavailable at the time of the board's first visit due to a medical emergency; or

(B) the board, in its discretion, decides to make an additional visit.

(c) This subsection applies to a voter confined due to illness or injury. An absentee voter board may not be denied access to the voter's place of confinement if the board is present at the place of confinement

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at a time:

(1) agreed to by the board and the voter; and

(2) during the regular office hours of the circuit court clerk. A person who knowingly violates this subsection commits obstruction or interference with an election officer in the discharge of the officer's duty, a violation of IC 3-14-3-4.

(d) The county election board, by unanimous vote of the board's entire membership, may authorize an absentee voter board to visit a voter who is confined due to illness or injury and will be outside of the county on election day in accordance with the procedures set forth in subsection (b).

(e) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, a voter casting an absentee ballot under this section must be:

(1) permitted to verify in a private and independent manner the votes selected by the voter before the ballot is cast and counted;

(2) provided with the opportunity to change the ballot or correct any error in a private and independent manner before the ballot is cast and counted, including the opportunity to receive a replacement ballot if the voter is otherwise unable to change or correct the ballot; and

(3) notified before the ballot is cast regarding the effect of casting multiple votes for the office and provided an opportunity to correct the ballot before the ballot is cast and counted.

(f) This subsection applies after December 31, 2005. As provided by 42 U.S.C. 15481, when an absentee ballot is provided under this section, the board must also provide the voter with:

(1) information concerning the effect of casting multiple votes for an office; and

(2) instructions on how to correct the ballot before the ballot is cast and counted, including the issuance of replacement ballots.

**(g) This subsection applies to a voter who applies to vote an absentee ballot by mail. The county election board shall include a copy of the Absentee Voter's Bill of Rights with any absentee ballot mailed to the voter. The Absentee Voter's Bill of Rights must be in a form prescribed by the commission and include the following:**

**(1) A statement summarizing the rights and responsibilities of the voter when casting and returning the absentee ballot.**

**(2) A summary of Indiana and federal laws concerning providing assistance to the voter, completion of the ballot in secret, the intimidation of voters, and the return of the absentee ballot to the county election board.**

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**(3) Information concerning how to report violations of the absentee ballot and election laws.**

SECTION 17. IC 3-11-15-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. **(a)** Each application must be in writing, **sworn to or affirmed by the applicant, under the penalties of perjury**, on a form prescribed by the commission, and ~~contain must satisfy the following information:~~ **requirements:**

(1) **Provide** the name and address of the vendor submitting the application.

(2) **Provide** the telephone number of the vendor.

(3) **Provide the name, address, and telephone number of the individual representing the vendor regarding the application.**

(4) **Provide the type and model name and number of the submitted voting system, stating the hardware, firmware, and software version numbers of the system.**

(5) **State whether the voting system is a direct record electronic voting system or an optical scan ballot card voting system.**

~~(4)~~ (6) **Provide** a description of the voting system and its capabilities, including **the following:**

(A) Photographs.

(B) Engineering drawings. ~~and~~

(C) Technical documentation.

(D) **Fail-safe and emergency backup information.**

(E) **Environmental requirements for storage, transportation, and operation.**

~~(5)~~ (7) **Include** an agreement to pay for the total costs of the examination.

(8) **Provide documentation of the escrow of the voting system's software, firmware, source codes, and executable images with an escrow agent approved by the election division.**

(9) **Provide a functional description of any software components.**

(10) **Provide schematics or flowcharts identifying software and data file relationships.**

(11) **Describe the type of maintenance offered by the vendor.**

(12) **Provide the names, addresses, and telephone numbers of the vendor's maintenance providers.**

(13) **Provide a description of the training courses offered by the vendor for the voting system.**

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(14) Provide user manuals, operator and system manuals, and problem solving manuals.

(15) Provide a statement of the current and future interchangeability of all subcomponents of the voting system.

(16) Provide documentation from all independent testing authorities that have examined the system.

(17) Provide documentation from all election jurisdictions that have previously approved the system.

(18) Pay the application fee required under section 4 of this chapter.

(b) If an application does not include any of the applicable requirements listed in subsection (a), those requirements must be filed with the election division before the application may be considered by the commission.

SECTION 18. IC 3-11-15-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 10. A vendor ~~may~~ **shall** reapply to the election division for reexamination of a voting system if the commission determines that an improvement or change to a voting system requires a reexamination of that system.

SECTION 19. IC 3-11-15-49 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 49. ~~(a) This section applies to a voting system approved by the commission after July 1, 1997.~~

~~(b) Before a vendor markets, sells, leases, installs, or permits the implementation of a voting system in Indiana, the vendor shall provide for the escrow of system software and source codes in accordance with an agreement between the vendor and the election division.~~ **commission must have approved the vendor's application for the approval of the voting system.**

SECTION 20. IC 3-11-15-51 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 51. (a) This section applies to any voting system change.

(b) To implement the requirements imposed under IC 3-11-7-15 and IC 3-11-7.5-5 for a vendor or county election board to report a proposed improvement or change to a voting system to the commission and for the commission to determine if the improvement or change may be **marketed, sold, leased, installed, or** implemented, the election division shall review and recommend whether the commission should approve proposed software, **firmware**, or hardware change introduced after the system has completed qualification in accordance with this chapter.

SECTION 21. IC 3-11-15-57 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 57. (a) This section applies to a proposed change in a voting system that is not an emergency voting system change.

(b) The vendor or a county election board shall file a written request for the proposed change with the election division under IC 3-11-7-15 or IC 3-11-7.5-5. The request must include the following information:

- (1) The reasons for the proposed change.
- (2) The schedule for making the proposed change, if approved.
- (3) A description of the files that will be changed, including directory information such as the file name and the size of the file (in bytes) both before and after the change is made.
- (4) A brief summary of the changes to be made in each of the files.
- (5) The name and title of each technician who will make the change.
- (6) If the technician is acting for a vendor or other company, the name of the company, and the telephone number and facsimile machine number of the company.

(c) The commission may approve the proposed change after:

- (1) the election division (or a competent person designated by the commission to act on behalf of the election division) reports to the commission that the vendor has tested the proposed changes on a simulated (mockup) version of the approved system; ~~and~~
- (2) the vendor supplies the results of this test and makes a similar demonstration to the election division; ~~and~~
- (3) the vendor files an affidavit with the election division certifying that the proposed change has not yet been marketed, sold, leased, installed, or implemented in Indiana.**

SECTION 22. IC 3-12-6-21.9, AS AMENDED BY P.L.176-1999, SECTION 98, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21.9. (a) **Except as provided in subsection (c),** a recount for nomination to an office conducted under this chapter shall be completed not later than the final Friday in June following the primary.

(b) **Except as provided in subsection (c),** a recount for election to an office conducted under this chapter shall be completed not later than December 20 following the election.

(c) **The court that appointed the commission may issue an order to extend the deadline under this section to a specific date if the court finds that there is good cause to do so.**

SECTION 23. IC 3-12-11-17.7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 17.7. (a) **This**

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1 **section applies to ballots cast by any voting method.**

2 **(b)** Unless the state recount commission makes a finding under  
3 subsection ~~(b)~~, **(c)**, the commission shall:

4 (1) count ballots in accordance with this article; and

5 (2) not order that all ballots in a precinct not be counted.

6 ~~(b)~~ **(c)** If:

7 (1) a party to the recount presents evidence of fraud, tampering,  
8 or misconduct affecting the integrity of the ballot within a  
9 precinct; and

10 (2) the commission determines that the fraud, tampering, or  
11 misconduct within that precinct was so pervasive that it is  
12 impossible for the commission to determine the approximate  
13 number of votes that each candidate received in that precinct;

14 the commission may order that none of the ballots from that precinct  
15 be counted.

16 SECTION 24. IC 3-12-11-21 IS AMENDED TO READ AS  
17 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 21. (a) **Except as**  
18 **provided in subsection (b)**, a recount **or contest** for election to a  
19 legislative office shall be completed **by the state recount commission**  
20 before December 20 after the election.

21 **(b) The state recount commission may adopt orders extending**  
22 **the deadline for completion of a recount or contest to a date**  
23 **specified in the order if the commission finds that there is good**  
24 **cause to do so.**

25 ~~(b) Before December 20~~ **(c) Not later than seven (7) days** after the  
26 ~~election, state recount commission completes a recount,~~ the election  
27 division shall prepare two (2) certified statements showing the total  
28 number of votes that each candidate received. The election division  
29 shall transmit one (1) statement to the candidate receiving the highest  
30 number of votes for the office. ~~Before December 20 after the election,~~  
31 **After the statements have been prepared,** the secretary of state shall  
32 deliver the other statement to the presiding officer of the house in  
33 which the successful candidate is to be seated.

34 ~~(c)~~ **(d)** The statement shall be referred by the presiding officer for  
35 such action as that house considers appropriate.

36 SECTION 25. IC 3-14-1-2.5 IS ADDED TO THE INDIANA CODE  
37 AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE  
38 UPON PASSAGE]: Sec. 2.5. (a) **This section does not apply to an**  
39 **individual subject to 2 U.S.C. 441h.**

40 **(b) An individual who:**

41 **(1) is:**

42 **(A) a candidate; or**

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(B) an employee or agent of a candidate; and

(2) knowingly misrepresents:

(A) the individual; or

(B) an organization under the control of the individual; as speaking, writing, or otherwise acting for or on behalf of another candidate, another political party, an employee or agent of another candidate, or an employee or agent of another political party on a matter that is damaging to the other candidate, the other political party, or to an employee or agent of the other candidate or an employee or agent of the other political party;

commits a Class A misdemeanor.

SECTION 26. IC 3-14-2-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. A person who recklessly writes the name of a voter on an affidavit of registration without being personally acquainted with the voter and knowing the voter to be the person who the voter represents the voter to be commits a Class A misdemeanor. knowingly does any of the following commits a Class D felony:

(1) Conspires with an individual for the purpose of encouraging the individual to submit a false application for registration.

(2) Conspires with an individual for the purpose of encouraging the individual to vote illegally.

(3) Pays or offers to pay an individual for doing any of the following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

(4) Accepts the payment of any property for doing any of the following:

(A) Applying for an absentee ballot.

(B) Casting an absentee ballot.

(C) Registering to vote.

(D) Voting.

SECTION 27. IC 3-14-2-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2.5. A person who does either of the following, knowing that an individual is ineligible to register to vote or to vote, commits absentee ballot fraud, a Class D felony:

(1) Solicits the individual to complete an absentee ballot

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1 application.

2 (2) Solicits the individual to submit an absentee ballot  
3 application to a county election board.

4 SECTION 28. IC 3-14-2-3 IS AMENDED TO READ AS  
5 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 3. A person who:

6 (1) subscribes the name of another person to an affidavit of  
7 registration **or application for an absentee ballot** knowing that  
8 the application contains a false statement; or

9 (2) subscribes the name of another person to an affidavit of  
10 registration **or application for an absentee ballot** without  
11 writing on it the person's own name and address as an attesting  
12 witness;

13 commits a ~~Class A misdemeanor~~: **Class D felony**.

14 SECTION 29. IC 3-14-2-5 IS AMENDED TO READ AS  
15 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 5. (a) **A person  
16 who recklessly destroys or fails to deliver an absentee ballot  
17 application to the proper officer after the application has been  
18 executed by another individual in accordance with IC 3-11-4  
19 commits a Class A misdemeanor.**

20 (b) A person who recklessly destroys or fails to file or deliver to the  
21 proper officer a registration affidavit or form of registration after ~~it the~~  
22 **affidavit or form** has been executed commits a Class A misdemeanor.

23 SECTION 30. IC 3-14-2-13 IS AMENDED TO READ AS  
24 FOLLOWS [EFFECTIVE JULY 1, 2004]: Sec. 13. A person who  
25 knowingly hires or solicits another person

26 ~~(1) to come into Indiana; or~~

27 ~~(2) to go from one precinct into another a precinct~~

28 for the purpose of voting at an election **at the precinct** when the person  
29 hired or solicited is not a voter in ~~Indiana~~ **or** the precinct commits a  
30 Class D felony.

31 SECTION 31. IC 3-14-2-15 IS AMENDED TO READ AS  
32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 15. A member of  
33 the commission, an employee **or agent** of the ~~commission~~, **election**  
34 **division**, or a member, **an employee, or an agent** of a county election  
35 board who knowingly delivers a ballot to a person except in the manner  
36 prescribed by this title commits a Class D felony.

37 SECTION 32. IC 3-14-2-16, AS AMENDED BY P.L.38-1999,  
38 SECTION 70, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
39 UPON PASSAGE]: Sec. 16. A person who knowingly does any of the  
40 following commits a Class D felony:

41 (1) Applies for or receives a ballot in a precinct other than that  
42 precinct in which the person is entitled to vote.

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(2) Except when receiving assistance under IC 3-11-9, shows a ballot after it is marked to another person in such a way as to reveal the contents of it or the name of a candidate for whom the person has voted.

(3) Except when offering assistance requested by a voter in accordance with IC 3-11-9, examines a ballot that a voter has prepared for voting or solicits the voter to show the ballot.

(4) Receives from a voter a ballot prepared by the voter for voting, except:

(A) the inspector;

(B) a member of the precinct election board temporarily acting for the inspector;

(C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or

(D) a member of the voter's household or an individual designated as attorney in fact for the voter, **or an employee of the United States Postal Service**, when delivering an envelope containing an absentee ballot under IC 3-11-10-1.

(5) Receives a ballot from a person other than one of the poll clerks or authorized assistant poll clerks.

(6) Delivers a ballot to a voter to be voted, unless the person is:

(A) a poll clerk or authorized assistant poll clerk; or

(B) a member of a county election board or an absentee voter board acting under IC 3-11-10.

(7) Delivers a ballot (other than an absentee ballot) to an inspector that is not the ballot the voter receives from the poll clerk or assistant poll clerk.

(8) Delivers an absentee ballot to a team of absentee ballot counters appointed under IC 3-11.5-4-22, a county election board, a circuit court clerk, or an absentee voting board under IC 3-11-10 that is not the ballot cast by the absentee voter.

**(9) Delivers an absentee ballot prepared by the voter for voting to a county election board, except for:**

**(A) the inspector;**

**(B) a member of the precinct election board temporarily acting for the inspector;**

**(C) a member of a county election board or an absentee voter board acting under IC 3-11-10; or**

**(D) a member of the voter's household or an individual designated as attorney in fact for the voter, or an employee of the United States Postal Service, when delivering an envelope containing an absentee ballot under IC 3-11-10-1.**

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1 (10) Possesses an unmarked absentee ballot on or before the  
 2 date of the election for which the absentee ballot has been  
 3 printed, unless the person is authorized to possess the  
 4 absentee ballot under this title as any of the following:

5 (A) A printer or the election division, when arranging for  
 6 the delivery of unmarked absentee ballots to a county  
 7 election board under IC 3-11-2.

8 (B) A county election board member.

9 (C) An absentee voter board member.

10 (D) An employee of the United States Postal Service when  
 11 delivering an envelope containing an absentee ballot.

12 (E) An individual authorized to deliver an absentee ballot  
 13 in a sealed envelope under IC 3-11-10-24.

14 (F) An absentee ballot counter under IC 3-11.5.

15 (G) A provisional ballot counter.

16 (H) A precinct election officer.

17 (I) The voter who applied for the absentee ballot.

18 (11) Completes or signs an absentee ballot application for a  
 19 voter, or assists a voter in completing an absentee ballot  
 20 application in violation of IC 3-11.

21 SECTION 33. IC 3-14-2-18 IS AMENDED TO READ AS  
 22 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 18. A voter who  
 23 knowingly:

24 (1) does anything to enable any other person to see or know for  
 25 what ticket, candidates, or public questions the voter has voted on  
 26 a voting ~~machine; system;~~ or

27 (2) moves into a position, or does any other thing, to enable the  
 28 voter to see or know for what ticket, candidates, or public  
 29 questions any other voter votes on a voting ~~machine; system;~~

30 commits a Class D felony.

31 SECTION 34. IC 3-14-2-24 IS AMENDED TO READ AS  
 32 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 24. A person who:

33 (1) takes a ballot legally deposited out of a ballot box **or out of a**  
 34 **voting system** for the purpose of destroying ~~it the ballot~~ or  
 35 substituting another **ballot** in its place;

36 (2) destroys or misplaces a ballot with the intent to substitute  
 37 another ballot for it or with the intent to prevent it from being  
 38 counted; or

39 (3) knowingly enters upon the poll books the name of a person  
 40 who has not legally voted or knowingly tallies a vote for a  
 41 candidate or on a public question not voted for by the ballot;

42 commits a Class D felony.

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SECTION 35. IC 3-14-2-26 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 26. A person who:

(1) during the progress of an election or within the time for preparation required under this title, knowingly breaks open or violates the seal or lock of a ballot box, envelope, container, ~~or~~ bag, **or voting system component** in which ballots have been deposited;

(2) knowingly obtains a ballot box, envelope, container, ~~or~~ bag, **or voting system component** that contains ballots and cancels, withholds, or destroys a ballot;

(3) knowingly increases or decreases the number of ballots legally deposited in a ballot box, envelope, container, ~~or~~ bag, **or voting system component**; or

(4) knowingly makes a fraudulent erasure or alteration on a tally sheet, poll book, list of voters, or election return deposited in a ballot box, envelope, ~~or~~ bag, **or voting system component**; commits a Class D felony.

SECTION 36. IC 3-14-2-29 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 29. A person who knowingly inspects a ~~voting machine or electronic~~ voting system under IC 3-12-4-18 without obtaining authorization from the state recount commission to conduct the inspection commits a Class D felony.

SECTION 37. IC 3-14-3-1.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1.5. A person who knowingly does any of the following commits a Class D felony:

(1) Procures or submits voter registration applications known by the person to be materially false, fictitious, or fraudulent.

(2) Procures, casts, or tabulates ballots known by the person to be materially false, fictitious, or fraudulent.

SECTION 38. IC 3-14-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 4. (a) A person who:

(1) knowingly obstructs or interferes with an election officer in the discharge of the officer's duty; or

(2) knowingly obstructs or interferes with a voter within ~~fifty (50)~~ feet of the ~~polls~~ chute;

commits a Class D felony.

(b) A person who knowingly injures an election officer or a voter:

(1) in the exercise of the officer's or voter's rights or duties; or

(2) because the officer or voter has exercised the officer's or

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1 **voter's rights or duties;**  
 2 **commits a Class D felony.**

3 (c) A person called as a witness to testify against another for a  
 4 violation of this section is a competent witness to prove the offense  
 5 even though the person may have been a party to the violation. ~~and~~ The  
 6 person shall be compelled to testify as other witnesses. However, the  
 7 person's evidence may not be used against the person in a prosecution  
 8 growing out of matters about which the person testifies, and the person  
 9 is not liable to indictment or information for the offense.

10 SECTION 39. IC 3-14-3-7 IS AMENDED TO READ AS  
 11 FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 7. An inspector or  
 12 poll clerk in a precinct who, for the purpose of:

- 13 (1) deceiving a voter;
- 14 (2) causing it to be doubtful for what ticket, candidate, or public
- 15 question a vote is cast; or
- 16 (3) causing it to appear that votes cast for one ticket, candidate, or
- 17 public question were cast for another ticket, candidate, or public
- 18 question;

19 removes, changes, or mutilates ~~a ballot label on~~ a voting machine  
 20 **system** or any part ~~thereof of a voting system~~ commits a Class D  
 21 felony.

22 SECTION 40. IC 3-14-3-16, AS AMENDED BY P.L.66-2003,  
 23 SECTION 52, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE  
 24 UPON PASSAGE]: Sec. 16. (a) As used in this section,  
 25 "electioneering" includes expressing support or opposition to any  
 26 candidate or political party or expressing approval or disapproval of  
 27 any public question in any manner that could reasonably be expected  
 28 to convey that support or opposition to another individual.

29 (b) A person who knowingly does any electioneering:

- 30 (1) on election day within:
- 31 (A) the polls; or
- 32 ~~(B) fifty (50) feet of the entrance to the polls; or~~
- 33 **(B) chute;**
- 34 (2) within an area in the office of the circuit court clerk used by
- 35 an absentee voter board to permit an individual to cast an
- 36 absentee ballot; **or**
- 37 **(3) in the presence of a voter whom the person knows**
- 38 **possesses an absentee ballot provided to the voter in**
- 39 **accordance with Indiana law;**

40 commits a Class A misdemeanor.

41 SECTION 41. IC 3-14-3-18, AS AMENDED BY P.L.176-1999,  
 42 SECTION 118, IS AMENDED TO READ AS FOLLOWS

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[EFFECTIVE UPON PASSAGE]: Sec. 18. (a) As used in this section, "candidate" includes an individual whom the person knows is considering becoming a candidate.

(b) A person who, for the purpose of influencing a voter or candidate, **does any of the following commits a Class D felony:**

(1) Seeks to enforce the payment of a debt by force or threat of force.

(2) Ejects or threatens to eject the voter or candidate from a house the voter or candidate occupies.

(3) Begins a criminal prosecution. ~~or~~

(4) Damages the business or trade of the voter or candidate.

~~commits a Class D felony:~~

**(5) Communicates a threat to commit a forcible felony (as defined in IC 35-41-1-11) against a voter or a candidate with the intent that the voter or candidate:**

**(A) engage in conduct against the voter's or candidate's will; or**

**(B) be placed in fear of retaliation for a prior lawful act as a voter or a candidate.**

SECTION 42. IC 3-14-3-19 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 19. A person who, for the purpose of inducing or procuring another person to:

**(1) apply for or cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention;** gives, offers, or promises to any person any money or other property commits a Class D felony.

SECTION 43. IC 3-14-3-20 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 20. A person who, for the purpose of inducing or procuring a voter to:

**(1) apply for or cast an absentee ballot; or**

**(2) vote or refrain from voting for or against a candidate or for or against a public question at an election or political convention;** receives, accepts, requests, or solicits from any person any money or other property commits a Class D felony.

SECTION 44. IC 3-14-3-20.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 20.5. (a) This section does not apply to activity subject to 18 U.S.C. 1341.**

**(b) An individual who knowingly:**

**(1) conspires to obtain property the individual would be entitled to receive as compensation for serving as an elected**

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official by securing false or fraudulent absentee ballot applications or voter registration applications; and

(2) for the purpose of executing the conspiracy:

(A) causes the applications to be sent or delivered by any private or commercial carrier operating entirely within Indiana; or

(B) takes or receives from the private or commercial carrier the false or fraudulent applications, or causes the applications to be delivered by the carrier to another person;

commits a Class D felony.

SECTION 45. IC 3-14-3-21.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: **Sec. 21.5. A person who knowingly or intentionally intimidates, threatens, or coerces an individual for:**

(1) voting or attempting to vote;

(2) urging or aiding another individual to vote or attempt to vote; or

(3) exercising any power or duty under this title concerning registration or voting;

commits voter intimidation, a Class D felony.

SECTION 46. IC 3-14-5-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 1. (a) This section applies during an election whenever a voter makes an affidavit before the inspector in a precinct that a person who has voted is an illegal voter in the precinct.

(b) Immediately after the close of the polls the inspector shall deliver the affidavit to the **county election board for delivery by the prosecuting attorney for the county who to the grand jury under section 2 of this chapter. The prosecuting attorney for the county** shall:

(1) proceed as if the affidavit had been made before the prosecuting attorney; and

(2) ~~notify~~ **ensure that the grand jury notifies** the NVRA official **under section 2 of this chapter** if a violation of NVRA appears to have occurred.

SECTION 47. IC 3-14-5-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE UPON PASSAGE]: Sec. 2. (a) Each precinct election board shall, at the close of the polls, place all affidavits prescribed by this title for use on election day to determine the eligibility of a precinct election officer (or a person who wishes to cast a ballot) in a strong paper bag or envelope and securely seal it. Each

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1 member shall endorse that member's name on the back of the bag or  
2 envelope.

3 (b) The inspector and judge of the opposite political party shall  
4 deliver the **sealed** bag or envelope to the county election board. ~~whose~~  
5 ~~duty it is to~~ **The county election board shall do the following:**

6 **(1) Remove the affidavits from the bag or envelope.**

7 **(2) Mail a copy of each affidavit to the secretary of state.**

8 **(3) Replace the affidavits within the bag or envelope.**

9 **(4) Reseal the bag or envelope with the endorsement of the**  
10 **name of each county election board member on the back of**  
11 **the bag or envelope.**

12 **(5) Carefully preserve it the resealed bag or envelope** and  
13 deliver it, with the **county election board's** seal unbroken, to the  
14 foreman of the grand jury when next in session.

15 (c) The grand jury shall inquire into the truth or falsity of the  
16 affidavits, and the court having jurisdiction over the grand jury shall  
17 specially charge the jury as to its duties under this section.

18 (d) The grand jury shall file a report of the result of its inquiry with:

19 (1) the court; and

20 (2) the NVRA official if a violation of NVRA appears to have  
21 occurred.

22 **SECTION 48. IC 35-44-1-1 IS AMENDED TO READ AS**  
23 **FOLLOWS [EFFECTIVE UPON PASSAGE]:** Sec. 1. (a) A person  
24 who:

25 (1) confers, offers, or agrees to confer on a public servant, either  
26 before or after the public servant becomes appointed, elected, or  
27 qualified, any property except property the public servant is  
28 authorized by law to accept, with intent to control the  
29 performance of an act related to the employment or function of  
30 the public servant;

31 (2) being a public servant, solicits, accepts, or agrees to accept,  
32 either before or after ~~he~~ **the person** becomes appointed, elected,  
33 or qualified, any property, except property ~~he~~ **the person** is  
34 authorized by law to accept, with intent to control the  
35 performance of an act related to ~~his~~ **the person's** employment or  
36 function as a public servant;

37 (3) confers, offers, or agrees to confer on a person any property,  
38 except property the person is authorized by law to accept, with  
39 intent to cause that person to control the performance of an act  
40 related to the employment or function of a public servant;

41 (4) solicits, accepts, or agrees to accept any property, except  
42 property ~~he~~ **the person** is authorized by law to accept, with intent

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to control the performance of an act related to the employment or function of a public servant;

(5) confers, offers, or agrees to confer any property on a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, with intent that the person will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(6) being a person participating or officiating in, or connected with, an athletic contest, sporting event, or exhibition, solicits, accepts, or agrees to accept any property with intent that ~~he~~ **the person** will fail to use ~~his~~ **the person's** best efforts in connection with that contest, event, or exhibition;

(7) being a witness or informant in an official proceeding or investigation, solicits, accepts, or agrees to accept any property, with intent to:

(i) (A) withhold any testimony, information, document, or thing;

(ii) (B) avoid legal process summoning ~~him~~ **the person** to testify or supply evidence; or

(iii) (C) absent ~~himself~~ **the person** from the proceeding or investigation to which ~~he~~ **the person** has been legally summoned; ~~or~~

(8) confers, offers, or agrees to confer any property on a witness or informant in an official proceeding or investigation, with intent that the witness or informant:

(i) (A) withhold any testimony, information, document, or thing;

(ii) (B) avoid legal process summoning the witness or informant to testify or supply evidence; or

(iii) (C) absent ~~himself~~ **the person** from any proceeding or investigation to which the witness or informant has been legally summoned; **or**

**(9) confers or offers or agrees to confer any property on an individual for:**

**(A) casting a ballot or refraining from casting a ballot; or**

**(B) voting for a political party, for a candidate, or for or against a public question;**

**in an election described in IC 3-5-1-2, or at a convention of a political party authorized under IC 3;**

commits bribery, a Class C felony.

(b) It is no defense that the person whom the accused person sought to control was not qualified to act in the desired way.

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1       SECTION 49. [EFFECTIVE UPON PASSAGE] (a) The definitions  
 2       in IC 3-5-2 apply throughout this SECTION.  
 3       (b) Not later than March 31, 2004, the commission shall act  
 4       under IC 3-5-4-8 to prescribe absentee ballot application forms  
 5       that comply with IC 3-11, as amended by this act.  
 6       (c) This subsection does not apply to an absentee ballot  
 7       application form prescribed by the commission for use by an  
 8       absent uniformed services voter or overseas voter. An absentee  
 9       ballot application form prescribed by the commission before April  
 10      1, 2004, may not be used or accepted by a county election board  
 11      after March 31, 2004.  
 12      (d) This SECTION expires January 1, 2005.  
 13      SECTION 50. An emergency is declared for this act.

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SENATE MOTION

Madam President: I move that Senator Waterman be added as coauthor of Senate Bill 422.

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COMMITTEE REPORT

Madam President: The Senate Committee on Elections and Civic Affairs, to which was referred Senate Bill No. 422, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill DO PASS.

(Reference is made to Senate Bill 422 as introduced.)

LAWSON C, Chairperson

Committee Vote: Yeas 7, Nays 0.

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## SENATE MOTION

Madam President: I move that Senate Bill 422 be amended to read as follows:

Page 14, line 29, after "to" insert "**the voter at**".

Page 18, line 31, after "system's" insert "**software, firmware,**".

Page 18, line 31, after "codes" insert ",".

Page 19, line 38, after "software" insert ", **firmware,**".

Page 21, line 28, strike "Before December 20 after the election," and insert "**After the statements have been prepared,**".

Page 23, line 15, after "executed" insert "**by another individual**".

Page 24, line 40, delete "," and insert "**on or before the date of the election for which the absentee ballot has been printed,**".

Page 25, line 1, delete "." and insert "**or the election division, when arranging for the delivery of unmarked absentee ballots to a county election board under IC 3-11-2.**".

(Reference is to SB 422 as printed January 27, 2004.)

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